IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

L.A.APPEAL No.1697 of 2002(D)

L.A.R.NO.38/1998 OF THE COURT OF THE SUBORDINATE JUDGE OF PAYYANNUR.

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APPELLANT: PETITIONER:-

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* PUTHIYA PURAYIL SEKHARAN,
THALOTTU P.O., KANDANGALI,
PAYYANNUR (**DIED**).

* ADDITIONAL APPELLANTS 2 TO 5 IMPLEADED:

ADDL.2. P.V.KARTHYAYANI, W/O.LATE PUTHIYA PURAYIL SEKHARAN,
PATTATHU VALAPPIL HOUSE, THALOTTU P.O.,
KADANGALI, PAYYANNUR, KANNUR DISTRICT.

ADDL.3. P.V.VILASINI, D/O.LATE PUTHIYA PURAYIL SEKHARAN,
PATTATHU VALAPPIL HOUSE, THALOTTU P.O.,
KADANGALI, PAYYANNUR, KANNUR DISTRICT.

ADDL.4. P.V.LALITHA, D/O.LATE PUTHIYA PURAYIL SEKHARAN,
PATTATHU VALAPPIL HOUSE, THALOTTU P.O.,
KADANGALI, PAYYANNUR, KANNUR DISTRICT.

ADDL.5. P.V.SUJATHA, D/O.LATE PUTHIYA PURAYIL SEKHARAN,
PATTATHU VALAPPIL HOUSE, THALOTTU P.O.,
KADANGALI, PAYYANNUR, KANNUR DISTRICT.

* (ADDITIONAL APPELLANTS 2 TO 5 ARE IMPLEADED AS LEGAL HEIRS OF THE DECEASED SOLE APPELLANT VIDE ORDER DATED 12.12.2006 IN I.A.NO.3838 OF 2004.

BY ADV. SRI.M.V.AMARESAN
SRI.V.N.RAMESAN NAMBISAN

RESPONDENT: RESPONDENT:-

THE SPECIAL TAHSILDAR,
LAND ACQUISITION, KANNUR.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

L.A.A.No.1697 of 2002-D

Dated, this the 2nd day of April, 2007

JUDGMENT

The claimant in L.A.R.No.38 of 1998 on the file of Subordinate Judge's Court, Payyannur is the appellant. The property belonging to the appellant was acquired for establishment of Naval Academy at Ezhimala. An award was passed on 15.3.1984 by the Special Tahsildar. The appellant did not make any application for enhancement. Subsequently, for an adjacent property which was acquired for the same purpose under the same notification, the Land Acquisition Officer awarded enhanced compensation. Therefore, the appellant filed an application under Section 28A(1) of the Land Acquisition Act before the Land Acquisition Officer. The Land Acquisition Officer redetermined the compensation and awarded a further amount of Rs.34,122/- to the appellant. Dissatisfied with the redetermined compensation, the appellant made a request to refer the matter to the Sub Court. Accordingly, the matter was referred to the Sub Court.

2. The Sub Court found that in L.A.R.No.169 of 1987 that Court had awarded land value at Rupees Two Lakhs per hectare. But, in this case while redetermining the compensation, the Land Acquisition Officer had awarded the land value as Rs.1,75,000/- per hectare. In view of the judgment in L.A.R. No.169 of 1987, the learned Sub Judge fixed the land value in this case also at Rupees Two Lakhs per hectare. Though the appellant claimed compensation for 12 yielding cashew trees, the learned Sub Judge found that the appellant was not entitled to get any compensation for cashew trees. The appellant also claimed an amount of Rs.4,000/- towards value of the structure put up in the acquired property. Relying on Exhibit B3 document, the learned Sub Judge found that the appellant had failed to establish that he has made any such structures and disallowed that claim also. Therefore, the land value was fixed at Rupees Two Lakhs per hectare and awarded an additional compensation of Rs.9,995/- and on that additional compensation, 30% solatium, 12% additional amount for the period from 22.2.1983 to15.3.1984, 9% interest for a period of one year from 16.3.1984 and thereafter at 15% per annum till date of payment

were also awarded.

3. The grievance of the appellant is that the Court below has not awarded interest and solatium. The judgment shows that the trial Court has awarded solatium and interest. In **State of Kerala** v. **Lakshmanan** [2006 (1) KLT 352], this Court found that though the claimant is entitled to interest, he is not entitled to get interest on interest amount payable under Section 34 of the Land Acquisition Act. Since the Court below has awarded interest and solatium, there is no merit in this appeal and the same is only to be dismissed.

In the result, the appeal is dismissed.

K.Padmanabhan Nair
Judge

vku/-